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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/782,437

02/19/2004

Rudy Woodard

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77723

7590

10/16/2008

Brookstone/GTPP

55 SOUTH COMMERCIAL STREET  
MANCHESTER, NH 03101

EXAMINER

FRISBY, KESHA

ART UNIT

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10/16/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/782,437	<b>Applicant(s)</b> WOODARD ET AL.	
	<b>Examiner</b> KESHA FRISBY	<b>Art Unit</b> 3714	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 17 June 2008.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1,3-14 and 16-22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,3-14 and 16-22 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### **Status of Claims**

***Upon the amendment filed on 6/17/2008, claims 1, 3-14 & 16-22 are pending in this application.***

### ***Claim Objections***

1. Claim 1 is objected to because of the following informalities: ..., and wherein the frame selection buttons are configured ...” should be ---, and wherein the one or more frame selection buttons are configured ---. Appropriate correction is required.

### ***Claim Rejections - 35 USC 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. **Claims 1, 3-6, 8, 9, 14, 16-19, 21 & 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Loudermilk et al. (U.S. Patent Number 6,393,401) in view of Cornwell (U.S. Patent Number 7,103,552), Chan (U.S. Patent Number 6,446,376) and Brookstone (Talking Photo Album).**

Referring to claims 1 & 14, Loudermilk et al. discloses an image display housing including an exterior surface configured to display one or more exterior images (Figs. 1A & 1B & column 3 lines 33-36); an audio storage configured to store one or more

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audio segments associated with exterior and interior images (storage circuit 100); and an audio player wherein activation by a first play button broadcast one of the one or more audio segments (column 3 lines 48-51). *Loudermilk et al.* does not disclose one or more interior frames removably stored within the image display housing and configured to display one or more interior images; an audio storage locking mechanism wherein activation will prevent any new audio to be stored over previously stored audio within the audio storage and one or more frame selection buttons wherein activation of one of the one or more frame selection buttons causes a respective one of the one or more frames to be mechanically positioned out of the image display housing by linear non-pivotal movement, and wherein the frame selection buttons are configured to initiate selection of the audio segments for broadcast such that one of the audio segments associated with a respective one of the interior images is selected when a respective one of the interior frames including the respective one of the interior images is selected. However, Cornwell teaches an audio storage locking mechanism wherein activation will prevent any new audio to be stored over previously stored audio within the audio storage (column 4 lines 4-37). It would have been obvious to one of ordinary skill in the art at the time the invention was made to include an audio storage locking mechanism, as disclosed by Cornwell, incorporated into Loudermilk et al. in order to prevent the accidental re-recording over a message. *Loudermilk et al./Cornwell* does not teach one or more interior frames removably stored within the image display housing and configured to display one or more interior images; and one or more frame selection buttons wherein activation of one of the one or more frame

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*selection buttons causes a respective one of the one or more frames to be mechanically positioned out of the image display housing by linear non-pivotal movement, and wherein the frame selection buttons are configured to initiate selection of the audio segments for broadcast such that one of the audio segments associated with a respective one of the interior images is selected when a respective one of the interior frames including the respective one of the interior images is selected.*

However, Chan teaches one or more interior frames (one of the frames 30) removably stored within the image display housing (photo display unit) and configured to display one or more interior images (column 2 lines 54-57); and one or more frame selection buttons (movable selector 70) wherein activation of one of the one or more frame selection buttons causes a respective one of the one or more frames to be mechanically positioned out of the image display housing by pivotal movement (abstract). It would have been obvious to one of ordinary skill in the art at the time the invention was made to include one or more interior images, as disclosed by Chan, incorporated into Loudermilk et al./Cornwell in order display the relevant photograph.

*Loudermilk et al./Cornwell/Chan does not teach linear non-pivotal movement and wherein the frame selection buttons are configured to initiate selection of the audio segments for broadcast such that one of the audio segments associated with a respective one of the interior images is selected when a respective one of the interior frames including the respective one of the interior images is selected.* Further, at the time the invention was made, it would have been obvious matter of design choice to a person of ordinary skill in the art to have linear non-pivotal movement because

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Applicant has not disclosed that having linear non-pivotal movement provides an advantage, is used for a particular purpose, or solves a stated problem. One of ordinary skill in the art, furthermore, would have expected Chan system, and applicant's invention, to perform equally well with either the pivotal movement taught by Chan or the claimed linear non-pivotal movement because movements will allow the frame to be removed from the casing in order to be seen. Therefore, it would have been prima facie obvious to modify Chan to obtain the invention as specified in claim 1 because such a modification would have been considered a mere design consideration which fails to patentably distinguish over the prior art of Chan.

*Loudermilk et al./Cornwell/Chan does not teach wherein the frame selection buttons are configured to initiate selection of the audio segments for broadcast such that one of the audio segments associated with a respective one of the interior images is selected when a respective one of the interior frames including the respective one of the interior images is selected.* However, Brookstone (Talking Photo Album) teaches wherein the frame selection buttons (touch of a button) are configured to initiate selection of the audio segments for broadcast such that one of the audio segments (nine-second message) associated with a respective one of the interior images (20 self adhesive pages with pictures thereon) is selected when a respective one of the interior frames including the respective one of the interior images is selected (20 self-adhesive pages with pictures thereon). It would have been obvious to one of ordinary skill in the art at the time the invention was made to include frame selection buttons associated with pictures and sound, as disclosed by Brookstone (Talking Photo Album),

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incorporated into Loudermilk et al./Cornwell/Chan in order to retrieve a nine-second message for each of the 20 self-adhesive pages.

Referring to claims 3 & 16, Loudermilk et al., as modified by Cornwell, Chan and Brookstone (Talking Photo Album), discloses further comprising: a control circuit configured to select one of the audio segments to broadcast based on activation of the first play button and activation of one or none of the one or more frame selection buttons (storage circuit 100/audio message circuit of Loudermilk et al.).

Referring to claims 4 & 17, Loudermilk et al., as modified by as modified by Cornwell, Chan and Brookstone (Talking Photo Album), discloses further comprising: an audio recorder wherein activation by a record button records one of the one or more audio segments to the audio storage (column 5 lines 37-40 & column 10 lines 17-19 of Loudermilk et al.); and a control circuit configured to identify one of the one or more recorded audio segment with an associated image based on activation of the record button and activation of one or none of the one or more frame selection buttons (storage circuit 100/audio message circuit of Loudermilk et al.).

Referring to claims 5 & 18, Loudermilk et al., as modified by as modified by Cornwell, Chan and Brookstone (Talking Photo Album), teaches wherein one interior image is displayed on a front and another interior image is displayed on a back of each of the one or more interior frames (column 3 lines 29-31 of Chan).

Referring to claims 6 & 19, Loudermilk et al., as modified by as modified by Cornwell, Chan and Brookstone (Talking Photo Album), discloses further comprising: a control circuit configured to select one of the audio segments to broadcast based on activation

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of the first play button or a second play button and activation of one or none of the one or more frame selection buttons (storage circuit 100/audio message circuit of Loudermilk et al.).

Referring to claims 8, 9, 21 & 22, Loudermilk et al., as modified by as modified by Cornwell, Chan and Brookstone (Talking Photo Album), discloses further comprising: an audio recorder wherein activation by a record button records one of the one or more audio segments to the audio storage (column 5 lines 37-40 & column 10 lines 17-19 of Loudermilk et al.); and a control circuit configured to identify one of the one or more recorded audio segment with an associated image based on activation of the record button (storage circuit 100/audio message circuit of Loudermilk et al.), an image record selector, and activation of one or none of the one or more frame selection buttons (column 10 lines 24-33 of Loudermilk et al.) and wherein the image record selector differentiates between images on a front side of each of the one or more interior frames and images on a back side of each of the one or more interior frames (column 10 lines 31-36 of Loudermilk et al.) (claims 9 & 22).

**4. Claims 7 & 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Loudermilk et al./Cornwell/Chan/Brookstone (Talking Photo Album) and further in view of Haas et al. (U.S. Patent Number 5,954,514).**

Referring to claims 7 & 20, Loudermilk et al./Cornwell/Chan/Brookstone (Talking Photo Album) discloses the image display of claims 6 & 14. *Loudermilk et al./Cornwell/Chan/Brookstone (Talking Photo Album) does not disclose wherein the first play button is associated with images on a front side of each of the one or more*



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*interior frames and the second play button is associated with images on a back side of each of the one or more interior frames.* However, Haas et al. teaches wherein the first play button is associated with images on a front side of each of the one or more interior frames and the second play button is associated with images on a back side of each of the one or more interior frames (column 5 line 63-column 6 line 2). It would have been obvious to one of ordinary skill in the art at the time the invention was made to include a first and second play button, as disclosed by Haas et al., incorporated into Loudermilk et al./Cornwell/Chan/Brookstone (Talking Photo Album) in order to indicate to the processor the photograph for which a message is to be played back or displayed.

**5. Claims 10 & 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Loudermilk et al. in view of Cornwell, Chan and Brookstone (Talking Photo Album).**

Referring to claims 10 & 12, Loudermilk et al. discloses recording and storing an audio segment (column 2 lines 8 & 9 lines 49-54 & column 9 lines 19 & 20) receiving a signal from a first play button (abstract: touching of the pictures or the frame); and selecting and playing an audio segment associated with an image based on receiving a signal from one or none of one or more frame selection buttons associated with one of one or more frames of the image display and receiving the signal from the first play button (column 2 lines 45-49) and further comprising the step of: selecting an audio segment associated with an interior image for play when one of the one or more frame selection button signals is received (abstract) (claim 12). *Loudermilk et al. does not disclose*

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*selectively locking the recorded audio segment to prevent erasure of the stored audio segment; activating one of one or more frame selection buttons associated with one or more interior frames to display one or more interior images by mechanically positioning a respective one of the one or more frames out of the image display housing by linear non-pivotal movement; and selecting and playing an audio segment associated with an image based on receiving a signal from the activated one or the one or more frame selection buttons and receiving the signal from the first play button.*

However, Cornwell teaches selectively locking the recorded audio segment to prevent erasure of the stored audio segment (column 4 lines 4-37). It would have been obvious to one of ordinary skill in the art at the time the invention was made to include selectively locking the recorded audio segment to prevent erasure of the stored audio segment, as disclosed by Cornwell, incorporated into Loudermilk et al. in order to prevent the accidental re-recording over a message. *Loudermilk et al./Cornwell does not teach activating one of one or more frame selection buttons associated with one or more interior frames to display one or more interior images by mechanically positioning a respective one of the one or more frames out of the image display housing by linear non-pivotal movement; and selecting and playing an audio segment associated with an image based on receiving a signal from the activated one or the one or more frame selection buttons and receiving the signal from the first play button.*

However, Chan teaches activating one of one or more frame selection buttons (movable selector 70) associated with one or more interior frames (one of the frames) to display one or more interior images by mechanically positioning a respective one of

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the one or more frames out of the image display housing by pivotal movement (abstract). It would have been obvious to one of ordinary skill in the art at the time the invention was made to include one or more interior images, as disclosed by Chan, incorporated into Loudermilk et al./Cornwell in order display the relevant photograph. *Loudermilk et al./Cornwell/Chan does not teach linear non-pivotal movement and selecting and playing an audio segment associated with an image based on receiving a signal from the activated one or the one or more frame selection buttons and receiving the signal from the first play button.* Further, at the time the invention was made, it would have been obvious matter of design choice to a person of ordinary skill in the art to have linear non-pivotal movement because Applicant has not disclosed that having linear non-pivotal movement provides an advantage, is used for a particular purpose, or solves a stated problem. One of ordinary skill in the art, furthermore, would have expected Chan system, and applicant's invention, to perform equally well with either the pivotal movement taught by Chan or the claimed linear non-pivotal movement because movements will allow the frame to be removed from the casing in order to be seen. Therefore, it would have been prima facie obvious to modify Chan to obtain the invention as specified in claim 1 because such a modification would have been considered a mere design consideration which fails to patentably distinguish over the prior art of Chan. *Loudermilk et al./Cornwell/Chan does not teach selecting and playing an audio segment associated with an image based on receiving a signal from the activated one or the one or more frame selection buttons and receiving the signal from the first play button.* Brookstone (Talking Photo

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Album) selecting (touch of a button) and playing an audio segment (nine-second message) associated with an image (20 self-adhesive pages with pictures thereon) based on receiving a signal from the activated one or the one or more frame selection buttons and receiving the signal from the first play button (touch of a button). It would have been obvious to one of ordinary skill in the art at the time the invention was made to include frame selection buttons associated with pictures and sound, as disclosed by Brookstone (Talking Photo Album), incorporated into Loudermilk et al./Cornwell/Chan in order to retrieve a nine-second message for each of the 20 self-adhesive pages.

**6. Claims 11 & 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Loudermilk et al./Cornwell/Chan/Brookstone (Talking Photo Album) and further in view of Haas.**

Referring to claim 11, Loudermilk et al./Cornwell/Chan/Brookstone (Talking Photo Album) discloses the method of claim 10. *Loudermilk et al./Cornwell/Chan/Brookstone (Talking Photo Album) does not disclose further comprising the step of: selecting and playing an audio segment associated with an exterior image when none of the one or more frame selection button signals is received.* However, Haas et al. teaches further comprising the step of: selecting and playing an audio segment associated with an exterior image when none of the one or more frame selection button signals is received (column 1 lines 29-36). It would have been obvious to one of ordinary skill in the art at the time the invention was made to include selecting and playing an audio segment associate an exterior image when none of the one or more frame selection button signals is received, as disclosed by Haas et al., incorporated into Loudermilk et

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al./Cornwell/Chan/Brookstone (Talking Photo Album) in order to associate the photographs with messages when the pages are turned.

Referring to claim 13, Loudermilk et al./Cornwell/Chan/Brookstone (Talking Photo Album) discloses the method of claim 10. *Loudermilk et al./Cornwell/Chan/Brookstone (Talking Photo Album) does not disclose further comprising the steps of: receiving a signal from a second play button; selecting and playing an audio segment associated with a back facing image when one or none of the one or more frame selection buttons is activated and the signal for the second play button is received; and selecting and playing an audio segment associated with a front facing image when one or none of the one or more frame selection button is activated and the signal for the first play button is received.* However, Haas et al. teaches further comprising the steps of: receiving a signal from a second play button (left photo play back switch 156); selecting and playing an audio segment associated with a back facing image when one or none of the one or more frame selection buttons is activated and the signal for the second play button is received (column 5 lines 63-67); and selecting and playing an audio segment associated with a front facing image when one or none of the one or more frame selection button is activated and the signal for the first play button is received (column 5 lines 63-67). It would have been obvious to one of ordinary skill in the art at the time the invention was made to include selecting and playing an audio segment associate with a back/front facing image, as disclosed by Haas et al., incorporated into Loudermilk et al./Cornwell/Chan/Brookstone (Talking Photo Album) in order to indicate to the processor the photograph for which a message is to be

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played back or displayed.

### ***Response to Arguments***

7. Applicant's arguments with respect to claims 1, 3-14 & 16-22 have been considered but are moot in view of the new ground(s) of rejection.

### ***Citation of Pertinent Prior Art***

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Ehrensaal (U.S. Patent Number 3,641,690) teaches a card ejector case.

Hu (U.S. Patent Number 6,990,293) teaches a picture changer with recording and playback capability.

Tan (U.S. Patent Number 5,897,324) teaches multimedia-book operable with removable data storage media implemented with universal interfacing book-adapting processor.

Pierce et al. (U.S. Patent Number 5,356,296) teaches an audio storybook.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to KESHA FRISBY whose telephone number is (571)272-8774. The examiner can normally be reached on Monday-Friday 8am-4pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Xuan Thai can be reached on 571-272-7147. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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